

Robertson Concrete and its workers compensation insurance carrier, Workers Compensation Fund (jointly referred to as “Robertson”), ask the Utah Labor Commission to reconsider its prior decision dismissing Robertson’s Motion for Review as untimely.

The Labor Commission exercises jurisdiction over this matter pursuant to Utah Code Ann. § 63-46b-13.

### **ISSUES PRESENTED**

Did Robertson have good cause for the untimely filing of its motion for review?

### **DISCUSSION**

As noted in the Commission’s previous decision, § 63-46b-12 of the Utah Administrative Procedures Act allows a party dissatisfied with an ALJ’s decision 30 days in which to file a motion for review with the Labor Commission. Unless a motion for review is timely filed, the Commission has no jurisdiction to review the ALJ’s decision. Furthermore, a motion for review is not “filed” until it is actually received by the Labor Commission.

In this case, Robertson concedes it did not file its motion for review until 31 days after the ALJ had issued her decision. Robertson also concedes that its motion for review was filed late because its attorney miscalculated the due date.

Accepting for purposes of discussion that the Commission has the authority to extend the deadline for Robinson’s motion for review, the Commission nevertheless declines to do so. The Commission has consistently dismissed motions for review not filed within the 30-day time period. The Commission does not view the facts of this case as warranting a departure from that practice. In particular, there is no indication that the motion for review could not have been filed within the time limits of the law.

### **ORDER**

The Commission reaffirms its previous decision and denies Robertson’s request for reconsideration. It is so ordered.

Dated this 8<sup>th</sup> day of June, 2005.

R. Lee Ellertson, Commissioner